

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

CHARLES M. COMSTOCK,

Plaintiff,

V.

CITY OF BALCH SPRINGS AND  
ANGELEANA TOLLIVER,

Defendants.

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No. 3:17-cv-344-B

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. An objection was filed by Plaintiff. The District Court reviewed *de novo* those portions of the proposed findings, conclusions, and recommendation to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendation for plain error. Finding no error, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.


The Court therefore **GRANTS** Defendants City of Balch Springs and Angeleana Tolliver's motion to strike Plaintiff Charles M. Comstock's unauthorized sur-reply, *see* Dkt. Nos. 15 & 16 and **GRANTS IN PART** Defendants' Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6) motion to dismiss Plaintiff's complaint, *see* Dkt. No. 11.

Accordingly, the Court **QUASHES** Plaintiff's defective service of process, **DISMISSES** the complaint without prejudice, and **GRANTS** Plaintiff leave to, by no later than **July 11, 2017**, (1) file an amended complaint containing factual allegations that are sufficient enough to allege a

plausible claim for relief and (2) properly serve that amended complaint on Defendants.

SO ORDERED.

DATE: JUNE 26, 2017



JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE